



CITY OF MORGAN HILL

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PLANNING COMMISSION MINUTES

REGULAR MEETING

OCTOBER 10, 2000

PRESENT: Lyle, McMahon, Mueller, Pinion, Ridner, Sullivan

ABSENT: Kennett

LATE: None

STAFF: Planning Manager (PM) Rowe, Business Assistance and Housing Service Director (BAHSD) Toy, and Minutes Clerk Johnson.

REGULAR MEETING

Vice-Chair Ridner called the meeting to order at 7:03 p.m.

Commissioner McMahon led the flag salute.

DECLARATION - POSTING OF AGENDA

Minutes Clerk Johnson certified that this meeting's agenda was duly noticed and posted in accordance with Government Code Section 54954.2.

PUBLIC COMMENTS

Vice-Chair Ridner opened the floor to public comments.

City Clerk Irma Torrez appeared with Luan Thi Kim Huynh, of the Santa Clara County Office of Registrar of Voters to announce a “Midnight Madness” event in the Clerk’s office whereby citizens were encouraged to come into City Hall to register to vote. The City Clerk disclosed that October 10 was the last day to register to vote in the upcoming general election. She encouraged anyone who needed to register to vote to come to City Hall before midnight and they would be signed up. City Clerk Torrez especially addressed the students in the audience and urged them to register to vote, noting that the privilege of voting is a great responsibility. Ms. Huynh stressed the need for poll workers, inviting members of the public to call 408-299-POLL to work the polls on election day. She conveyed salaries for election day of \$85- \$110 for poll workers. The Vice-Chair thanked the City Clerk and Ms. Huynh as he, too, encouraged the public to register and vote.

There being no other persons wishing to speak, Vice-Chair Ridner closed the public comments.

PRESENTATION:

Presentation by Jan Marsh of the South County Charter School.

Jayne Marsh and Rhonda Buss appeared to provide the Commissioners with information regarding work on the South Valley Charter School. Data sheets were circulated to each of the Commissioners present which provided information on what a Charter School is, the mission statement of the South Valley Charter School, as well as background information on the project. The speakers indicated the plan to have a K - 6 elementary school in operation by fall of 2000 with approximately 150 - 175 students, increasing enrollment and grade levels to a proposed maximum of 350 students in grades K - 8 ultimately.

Commissioner Sullivan stated she had not found a reference of the group engaging with the Morgan Hill School District and questioned whether there was work with, and support from, that District? Mrs. Marsh indicated they had been working closely with the District since beginning discussions for the proposed school. She informed the Commissioners the District was providing sponsorship of the Charter. Further, Mrs. Buss said the District will be reviewing the curriculum for consistency and merit.

MINUTES:

**SEPTEMBER 26,
2000**

COMMISSIONERS PINION/MUELLER MOTIONED TO APPROVE THE SEPTEMBER 26, 2000 MINUTES AS AMENDED. THE MOTION PASSED ON A VOTE OF 5-0, WITH SULLIVAN ABSTAINING AND KENNETT, ABSENT. AMENDMENTS ARE AS FOLLOWS:

- 1) Page 3, paragraph 2: ~~objections~~ objectives
- 2) Page 3, Dr. Jessup speaking: (addition/correction): The college has attempted 16 - 19 times to purchase property to move the facility and academic program.
- 3) Page 4, paragraph 5: studies of ~~faculty~~ the student
- 4) Page 4, paragraph 5: discussion regarding need for total student enrollment count, not the full-time equivalent number of students.
- 5) Page 9, Kit Greenberg speaking: Clarification: the SJCC status is not the same as CSUMB; CSUMB has been in existence only two years; SJCC for many more. The WASC process takes a minimum of six years; therefore, CSUMB has been in the process only a short time whereas SJCC did not initiate the process until recently.
- 6) Page 12, paragraph 8: Clarification as to the location of the proposed high school parking lot: entrance will be at Half Road, behind the football stands; which will become the exit area. The entire driveway will be one way traffic only.
- 7) Page 12, paragraph 2: the name change did not deal with nor come under zoning, but should be viewed as a good will gesture, thereby giving a separate identity to the facilities.
- 8) Page 12/13: Correction/addition: "Not sure of the presentation planned by the

Task Force, therefore, we may not have the complete information at the present time.”

- 9) Page 13, paragraph 3: Clarification: “not comfortable acting on information presented which contains primarily two items only.
- 10) Page 14, Commissioner Pinion expressed his desire to obtain all the facts possible, including the report from the Blue Ribbon Committee and answers to the traffic issues raised tonight before locking in a decision. Other Commissioners echoed this feeling, saying the responsibility to make credible decisions on land use issues and development in the City is crucial to the integrity of the planning process and that all available information must be gathered in order to ensure their responsibility is met.

OLD BUSINESS:

1) USA-00-02: SUNNYSIDE- STODDARD

A request for an amendment to the Urban Service Area boundary to include three parcels totaling approximately 9 acres located on the east side of Sunnyside Ave., adjacent to the north side of the La Grande subdivision. PM Rowe presented the staff report, noting the concerns were the same as the last time the Commissioners had reviewed the project, including but not limited to line of sight for oncoming traffic. He indicated information had been given to the City Council by a consultant retained by the applicant which had not been provided to the Commission during the presentation made to them. Further, he advised that the hearing should be continued until the October 24th meeting, with no decision this night as the hearing had not been properly noticed as required. He explained the applicant had failed to provide the required addresses for notification as required by law. He stressed City staff had not been remiss in the matter, the responsibility for providing information for notification lay with the applicant.

Vice-Chair Ridner opened the public hearing.

With no indication of any member of the public wishing to speak, the public hearing was closed by Vice-Chair Ridner.

Commissioner Lyle said that having reviewed the report, he wished to comment on some of the items it contained. He stated that the Council in their deliberations expressed interest in determining whether the traffic improvements could be locked in, and whether Mr. Cruz had title ownership or easement rights to his connection to Sunnyside.

David Cruz of 15820 Sunnyside Ave., was present in the audience and asked to be recognized.

Vice-Chair Ridner reopened the public hearing.

David Cruz said he was a long time resident and property owner of the property at issue. He stated this matter had been going on for two years, and he was not always notified of the meetings and public hearings, which concerned him. He said it now appeared the City was going to take his property by eminent domain and he wanted to know if this was possible? He also said his water well was on one of the properties owned by the City and asked if he could get water from it in the event the property is brought into the City?

Vice-Chair Ridner urged Cruz to discuss such concerns directly with PM Rowe, who assured he would meet with Cruz at a mutually agreed on time.

With no others present to speak, the public hearing was closed by Vice-Chair Ridner.

In discussion, Commissioner McMahon stated she hoped the staff would look into a method of ensuring notice was provided to all as required.

PM Rowe said that limited staff resources, coupled with increased work loads, prohibited in-depth management of such matters at this time, but the issue was continually being studied for providing improved service to the public.

Commissioner Sullivan announced a very adversarial letter had been received from Bruce Tichinin who raised several objections to the project and the hearings in general, particularly rehearings such as this one.

PM Rowe said it was very important for all decision makers to be presented the same information and that was why the matter had been returned to the Commission

Commissioner Pinion said it appeared that Mr. Tichinin was also implying that Stoddard had not been notified.

PM Rowe said Mrs. Stoddard certainly was; she had been at the counter in the Planning Department talking to staff, who discussed the issue of the hearing with her.

David Cruz said there had been some question as to who owns the driveway and that he does.

Vice-Chair Ridner again urged Cruz to discuss such issues directly with PM Rowe.

COMMISSIONERS PINION/McMAHON MOTIONED TO CONTINUE THE PUBLIC HEARING UNTIL THE OCTOBER 24TH MEETING. THE MOTION PASSED BY A VOTE OF 5-0, WITH SULLIVAN ABSTAINING AND KENNETT ABSENT.

NEW BUSINESS:

**1. DA-99-06:
MONTEREY-
TBI/GOMES
(MADRONE
BUSINESS
PARK)**

A request for approval of a development agreement for the Madrone Business Park on approximately 80 acres, located on the north side of Cochrane Ave. between Monterey Rd. and Hwy 101. Business Assistance and Housing Service Director (BAHSD) Toy presented the report which had been distributed to the Commissioners. He reminded the Commissioners this property was located on Monterey Road just north of Cochrane. He said an assessment district had been formed for providing and supporting the infrastructure of the Business Park. BAHSD Toy requested the Commissioners to give their approval of the development agreement. He stated the benefits to the City are value-added beyond the norm. A major benefit is the addition of Media Arts, which is the corporate entity for artist Thomas Kincaid. He predicted the project would add 500 - 700 jobs to the

City employment base. Such benefit would enhance revenue to the City, he said. He presented the proposal for incentives to the developer to complete build-out of the project at reduced impact fees charged the developer. However, he pointed out that the rapid build-out would bring greater benefit to the City in terms of future job growth and general revenue to the City.

BAHSD Toy reiterated the terms of the agreement, emphasizing the square footage requirements of 350,000 sq. ft. the first year, which would occur with the construction of Media Arts plus 100,000 in the second year for the incentive to be delivered. The incentive program of benefit to the developers is set for three years.

Commissioner Mueller asked why two different dates (i.e., effective date versus enactment date) are referenced on page 4, stressing the need for consistency in documents such as the agreement. BAHSD Toy said he would ask the City attorney to look into that issue.

Commissioner Lyle said that in reviewing the document, he noticed that there is mention of a development plan but that is not attached, so continuity of thought and follow up is difficult.

Vice-Chair Ridner noted that he agreed with Commissioner Lyle, that the lack of mentioned documents provided for specific difficulty in following the thread of issues the Commission is being asked to deal with; he said there is a need to avoid such in the future. He also said he had struggled with the math, that it was not easy to get from point A to point B, especially in transitioning from phase 2 to phase 3. There appears to be a need for better housekeeping, he said. For example, the Media Arts build-out numbers are not clear. Is the square footage 250,000 or 350,000 the first year? Vice-Chair Ridner also stated his feeling that a clear schedule of work should be included. He pointed specifically to section 5.4 (reimbursement), noting that any developer fiscal cap or limits should be included here; if there is a difference, quantifying information should be provided. Vice-Chair Ridner went on to state that section 9.4 of the proposed agreement was not clear in the context of this agreement, that specific time frames should be included.

Commissioner Lyle stated that there was a cap for the fees for the developer in the matter of City expenses, but he could find no mention of the fee-cap schedule.

Vice-Chair Ridner noted it was of benefit to the developer to have fees locked in, but what was the benefit to the City?

Commissioner Lyle pointed out there needed to be mention of new or proposed fees as they would impact the developer.

BAHSD Toy stated the impact fees have increased three to five percent per year over the past three years.

Commissioner Lyle responded, "Yes, but the cost for buying land for roads rises dramatically every year". He emphasized he and the Commissioners were not here to negotiate the agreement, but it was important for the Commission to provide comments to staff to be sent to the City Council.

Commissioner Sullivan was excused at 7:59 p.m.

Commissioner Pinion agreed, saying the agreement needed to be very clear so that both parties know all their obligations. If the agreement is not clear, no one is well served.

Robert Rienhardt, 19052 Taylor Ave. was present to speak to the issue of the agreement. He called specific attention to section 9.4 (truck entrances) and asked who was responsible for the enforcement and if the City had the capability for enforcement? He wants the City Council to provide assurances that the document has the "teeth" in it to do the job. He stated he applauded the Commission for supporting the neighborhood and believes the developer was trying to do the right thing in the area.

BAHSD Toy and PM Rowe stated there are CC&Rs as part of the PUD that speak to the issues raised by Rienhardt. If new construction is added, the provisions of the CC&Rs must be adhered to.

Brad Krouskup, President of Toeniskoetter and Breeding, Inc. (TBI) Development Company, was present and spoke to the Commission. He said the company had a substantial financial investment in the project, and said that the 110 acres (total) represented would be valued in excess of \$200 million at completion. He spoke of the fee structure which provided the incentive basis for company's involvement. He further noted that static zoning was the basis for the document presented to the Commission at this time. In response to issues raised by Commissioners, he urged that the lack of specifics in the development agreement be resolved by using the CC&Rs as an attachment for clarification.

Commissioner Lyle asked about the 350,000 square foot build-out in the first year, whether the incentive provided might be better divided through slower, more guaranteed build-out over a longer period of time? Discussion followed regarding the specific terms of the square footage and length of time committed within the framework of proposed build-out/incentive promise.

Commissioner Mueller stated there is a need for a clean, clearly understood document. He questioned if it might not be better to have the matter returned in two weeks? Vice-Chair Ridner questioned whether the applicant (developer) would be agreeable with this?

Commissioner Pinion said he thought it was important that the document be very clear.

A ten minute break was declared.

Upon continuance of the meeting, Commissioner Pinion asked if the action was to be continued to the next meeting, what actions needed to occur and if the two weeks would be enough time for all the clarifications requested; specifically dealing with landscaping issues and pinning down the square footage questions.

Krouskup indicated he agreed that Commissioner Lyle had been correct in his reading of the square footage requirements of the agreement, and that issue was no longer in question.

PM Rowe said it would be possible to have the matter agendaized as a consent item.

Commissioner Lyle said if there were still concerns at the October 24 meeting, the item could be taken from the consent calendar and revisited.

Commissioner Pinion asked how soon the reformatted agreement could be distributed? BAHSD Toy said it would be mailed within one week.

Commissioner Mueller commented he was pleased that Mr. Rienhardt had taken the time to appear before the Commission and that it was good to have a citizen say the developer was trying to do a good job and was working well with the neighborhood.

Vice-Chair Ridner suggested that a typical boilerplate agreement might be available from other entities which would be beneficial in the future for creating and formulating agreements such as the one under discussion. BAHSD Toy advised that the City Attorney had used a combination of such templates in the preparation of the document under discussion.

COMMISSIONERS PINION/ McMAHON MOTIONED TO CLOSE THE PUBLIC HEARING AND PLACE THE ITEM ON THE OCTOBER 24 COMMISSION MEETING CONSENT CALENDAR FOR THE COMMISSIONER'S REVIEW AND POSSIBLE APPROVAL AT THAT TIME. THE MOTION PASSED BY A VOTE OF 5-0, WITH KENNETT AND SULLIVAN ABSENT.

**2. REVIEW OF
MULTI-
FAMILY
VACANCY
RATE
REPORT**

BAHSD Toy presented the vacancy study, noting the vacancy rate in the City is less than one percent. He also reminded the Commissioners the report is updated annually in October. He requested the Commissioners to accept the survey.

ON A MOTION BY COMMISSIONER LYLE AND SECONDED BY COMMISSIONER MUELLER, AND PASSED UNANIMOUSLY BY THE COMMISSIONERS PRESENT, WITH CHAIR KENNETT AND SULLIVAN ABSENT, THE REPORT OF MULTI-FAMILY VACANCY RATES WAS APPROVED.

ANNOUNCEMENTS:

PM Rowe announced the City Council has adopted the Wood Smoke Ordinance previously approved by the Commission. PM Rowe also spoke of the General Plan Update Traffic Study Review and Discussion scheduled for October 19.

Commissioner Mueller provided information that the final EIR for the High School was being circulated and he is reviewing it at present. He noted the timing of the traffic study may have been a poor choice as it was completed during the summer months when limited numbers of students would be present in or travel through the area. Other Commissioners commended him on his work in following this issue.

ADJOURNMENT: There being no further business, Vice-Chair Ridner adjourned the meeting at 8:29 p.m.

MINUTES RECORDED AND PREPARED BY:

JUDI H. JOHNSON

Minutes Clerk

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